

Free State, South Africa

Free State Provincial and Local Houses of Traditional Leaders Act, 2017

Act 7 of 2017

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Free State Provincial and Local Houses of Traditional Leaders Act, 2017

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Free State South Africa

Free State Provincial and Local Houses of Traditional Leaders Act, 2017 Act 7 of 2017

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Assented to on 26 September 2017

**Commenced on 30 March 2018 by Free State Provincial and
Local Houses of Traditional Leaders Act, 2017: Commencement**

*[This is the version of this document from 29 September 2017
and includes any amendments published up to 25 March 2024.]*

(English text assented to and signed by the Premier on 26 September 2017.)

ACT

To provide for the establishment of a Provincial House of Traditional Leaders and Local Houses of Traditional Leaders; to provide for the composition of the Houses; to determine the roles and functions of the Houses; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:

Chapter 1

1. Definitions

(1) In this Act, unless the context otherwise indicates—

“**code of conduct**” means the Code of Conduct set out in Schedule 1;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**district municipality**” means a district municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**executive committee**” means the executive committee of a House referred to in section 17;

“**Framework Act**” means the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“**Free State Traditional Leadership and Governance Act, 2005**” means the Free State Traditional Leadership and Governance Act, 2005 (Act No. 8 of 2005);

“**House**” means the Provincial House and/or Local House, as the case requires;

“**Kgosana, Morena wa Motse or Ramotse**” means a headman or headwoman contemplated in section 11 of the Framework Act;

“**Kgosi or Morena**” means a senior traditional leader contemplated in section 11 of the of the Framework Act;

“**Local House**” means a Local House of Traditional Leaders established under section 9;

“**MEC**” means the Member of the Executive Council responsible for traditional affairs in the Province;

“**member**” means a member of a House;

“**metropolitan municipality**” means a metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 ([Act No. 117 of 1998](#));

“**Morena e moholo**” means a king or queen recognised in terms of section 9 of the Framework Act;

“**National House**” means the National House of Traditional Leaders referred to in section 2 of the National House of Traditional Leaders Act, 2009 ([Act No. 22 of 2009](#));

“**Premier**” means the Executive Head of the Province;

“**Principal traditional leader**” means a principal traditional leader recognised in terms of provincial legislation contemplated in section 10A of the Framework Act;

“**Province**” means the Free State Province as contemplated in section 103 of the [Constitution](#);

“**Provincial House**” means the Free State House of Traditional Leaders established under [section 2](#);

“**Secretary**” means the person appointed as secretary to the Provincial House and the persons appointed as secretary to Local houses in terms of [section 21](#);

“**Traditional community**” means a traditional community recognised in terms of section 3 of the Free State Traditional Leadership and Governance Act, 2005; and

“**Traditional council**” means a traditional council recognised in terms of section 7 of the Free State Traditional Leadership and Governance Act, 2005.

- (2) The words defined in the Free State Traditional Leadership and Governance Act, 2005, has the same meaning for the purposes of this Act.

Chapter 2

2. Establishment of the Provincial House of Traditional Leaders

- (1) There is hereby established a Provincial House of Traditional Leaders known as the Free State House of Traditional Leaders.
- (2) The Provincial House has the functions and duties entrusted to it in terms of the provisions of this Act.
- (3) The term of office of a Provincial House is five years aligned to the term of the National House of Traditional Leaders: Provided that the first term of the Provincial House, after the commencement of this Act, may be less or more than five years so as to align to the term of the National House.

3. Composition of the Provincial House

- (1)
 - (a) The Provincial House shall, subject to subsection (2), consist of the number of members to be determined by the Premier by notice in the *Provincial Gazette*.
 - (b) The membership of the Provincial House shall consist of senior traditional leaders and on good grounds shown or due to an insufficient number of senior traditional leaders, headmen and/or headwomen: Provided that where a traditional community does not have a sufficient number of headmen or headwomen, such community will be represented by the required number of members of the royal family which will for purposes of this section and [section 9](#) be deemed to be headmen or headwomen.
 - (c) The Kings/Queens and the principal traditional leaders may not be members of the Provincial House.

- (d) The members of the Provincial House shall, subject to subsection (2), be elected by an electoral college for each a kingship or Queenship, principal traditional leadership and by traditional councils which do not form part of a kingship or queenship or a principal traditional leadership: Provided that where a traditional council has not been established, the election shall be done by the traditional community concerned.
- (e) The Electoral College referred to in paragraph (d) consists of the king or queen or principal traditional leader, all senior traditional leaders and all headmen or headwomen within the kingship or Queenship or principal traditional leadership or traditional council concerned.
- (2) The Premier shall, subject to subsection (1)(a), by notice in the *Provincial Gazette*, determine the number of members of each kingship or Queenship or principal traditional community and of each traditional council which does not form part of a kingship or queenship or principal traditional community or where a traditional council has not been established, the number of members of the traditional community, to be represented in the Provincial House.
- (3) A third of the members of the Provincial House must consist of women: Provided that if the Premier is satisfied that there are an insufficient number of women available to participate in the Provincial House, the Premier may determine a lower threshold.
- (4) A member must hold office for the term of the Provincial House.
- (5) If a member of the Provincial House dies, or ceases to be a member in terms of [section 7](#), a new member must be elected within a period of one month for the remainder of the term of the Provincial House.

4. Meetings of the Provincial House

- (1)
 - (a) The first meeting after the constitution of the Provincial House in terms of [section 3](#), must take place at a date and place to be determined by the Premier.
 - (b) The Premier or a person designated by the Premier must chair the meeting referred to in paragraph (a).
- (2) Meetings of the Provincial House must be held at such place as the chairperson, may from time to time determine.
- (3) There must be an ordinary meeting of the Provincial House at least four times in every year during the session of the Provincial Legislature.
- (4) Subject to subsections (2) and (3), the Provincial House must meet during such periods and on such days and during such hours as it may determine.
- (5)
 - (a) The chairperson may at any time, or if so directed by the Premier, call a special meeting of the Provincial House on a day and at a place to be determined by the said committee, as the case may be.
 - (b) At such a special meeting only such matters as are placed before the Provincial House must be dealt with.
 - (c) Any member of the House, if supported by a third of the members of the House, may call a special meeting.
- (6) A person designated by the Premier may attend the meetings of the Provincial House to advise the Provincial House regarding government policies and legislation that relate to traditional affairs.
- (7) The presence of at least a majority of all members of the Provincial House shall be necessary to constitute a meeting of the Provincial House.

5. Election of chairperson and deputy chairperson of the Provincial House

At its first meeting as contemplated in [section 4](#)(1), the Provincial House, must elect one of its members to be the chairperson, and must thereafter elect another of its members to be the deputy chairperson of the Provincial House.

6. Roles, functions and duties of the chairperson and deputy chairperson of the Provincial House

- (1) The chairperson of the Provincial House has the following roles, functions and duties:
 - (a) to call the meetings of the Provincial House;
 - (b) to chair the meetings of the Provincial House;
 - (c) to ensure the efficient day-to-day running of the business of the Provincial House; and
 - (d) to perform any other function or role as may be assigned to him or her by the Premier or this Act.
- (2) If the chairperson is absent or for any reason unable to perform the functions vested in the office of chairperson, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson during the absence or inability of the chairperson or until a chairperson is elected.
- (3) If any of the circumstances described in subsection (2) applies with reference to both the chairperson and the deputy chairperson, a member of the Executive Committee designated in terms of the rules and orders must act as chairperson while the said circumstances prevail.
- (4) The deputy chairperson or the member of the Executive Committee designated under subsection (3), while acting as chairperson, must perform the functions vested in the office of chairperson.
- (5) While presiding at a meeting of the Provincial House, the chairperson, deputy chairperson or any other member presiding must not have a deliberative vote, but must have and exercise a casting vote in the case of an equality of votes.
- (6) The chairperson or deputy chairperson must vacate his or her office if he or she ceases to be a member of the Provincial House according to [sections 7](#) or [16](#), and may be removed from office by resolution of the Provincial House supported by a two thirds majority of the full complement of the members of the Provincial House.
- (7) If the office of chairperson or deputy chairperson becomes vacant, the Provincial House, under the chairpersonship of the Premier or a person designated by the Premier, must elect a member to fill the vacancy: Provided that the chairperson must in such event preside at the election of the deputy chairperson.

7. Qualification for membership of the Provincial House

- (1) No person must become or remain a member of the Provincial House, unless he or she is of or over the age of 18 years, or if he or she—
 - (a) at any time after the promulgation of the [Constitution](#), is convicted of an offence in the Republic, or outside the Republic, if the conduct constituting such offence would have constituted an offence in the Republic, and for which he or she has been sentenced to imprisonment of more than 12 months without the option of a fine, unless he or she has received a pardon;
 - (b) is an unrehabilitated insolvent;
 - (c) is of unsound mind and has been so declared by a competent court;

- (d) is a member of a municipal council, a member of the provincial legislature or a member of Parliament;
 - (e) is not a South African citizen;
 - (f) is not permanently resident within the Republic.
- (2) For the purpose of subsection (1)(a), no person must be deemed as having been convicted of an offence until any appeal against the conviction or sentence has been determined, or, if no appeal against the conviction or sentence has been noted, the time for noting such an appeal has expired.

8. Functions of the Provincial House of Traditional Leaders

- (1) The Provincial House has the following functions:
- (a) Advise the provincial government or the provincial legislature on developmental matters relating to indigenous law or affecting traditions and customs of traditional communities.
 - (b) Advise the provincial government and participate in the development of provincial policies and legislation.
 - (c) Participate in national and provincial developmental programmes.
 - (d) Promote the role of traditional leadership within the Free State Province.
 - (e) Participate in partnership with other stakeholders, in provincial initiatives meant to monitor, review and evaluate government programmes in traditional communities.
 - (f) Enhance unity and understanding among Free State traditional communities.
 - (g) Enhance co-operation between the Local House/s, and the traditional councils in the Free State Province.
 - (h) Participate in the structures of government.
 - (i) Promote and protect cultural values, morals and indigenous, practices of the communities.
- (2) To perform such functions as may be conferred by the Premier or as may be provided for in any other relevant provincial legislation.

Chapter 3

9. Establishment of a Local House of Traditional Leaders

- (1) (a) A local house of traditional leaders is hereby established for each district and metropolitan municipality where there is more than one traditional council in that district or metropolitan municipality.
- (b) The local houses referred to in paragraph (a) must be established by the Premier by notice in the *Provincial Gazette*.
- (2) (a) Subject to paragraph (b), where a Local House cannot be established in terms of subsection (1), the functions of a local house referred to in subsection (3) must be performed by the traditional council within the district or metropolitan municipality.
- (b) The functions of a local house contemplated in paragraph (a), must be performed by the senior traditional leader and other four members of the traditional council.
- (3) The members of a Local House consist of the senior traditional leaders and headmen or head women residing within the district or metropolitan municipality.

- (4) The members of a Local House are elected by the electoral college consisting of Kings and/or Queens or their representatives, principal traditional leaders and senior traditional leaders residing within the district or metropolitan municipality in question.
- (5) The Premier must, by notice in the *Provincial Gazette*, call the elections for the first term of the respective Local Houses, within sixty days after the coming into operation of this Act: Provided that such elections must take place within 30 days of the said notice.
- (6) The Premier must, by proclamation in the *Provincial Gazette*, prescribe the procedure to be followed at the elections referred to in subsection (4) and any other future elections for Local Houses.
- (7) A Local House has the functions entrusted to it by or in terms of [section 15](#).
- (8) The term of office of a Local House is five years aligned to the term of office of the National House of Traditional Leaders: Provided that the first term of local houses may be less or more than five years so as to align to the term of the National House.

10. Composition of a Local House

- (1) A Local House consists of not less than 5 and not more than 10 members as determined by the Premier by notice in the *Provincial Gazette*.
- (2) A third of the members of a Local House must consist of women: Provided that if the Premier is satisfied that there is an insufficient number of women to participate in the Local House, the Premier may, after consultation with the relevant electoral college referred to in [section 9\(3\)](#), determine a lower threshold.

11. Meetings of the Local House

- (1)
 - (a) The first meeting after the constitution of a local house in terms of [section 10](#), must take place at a date and place to be determined by the MEC.
 - (b) The MEC or a person designated by the MEC must chair the meeting referred to in paragraph (a).
- (2) Meetings of the Local House must be held at such place as the Chairperson may from time to time determine.
- (3) There must be an ordinary meeting of the Local House at least four times in every year during the session of the district or metropolitan municipality.
- (4) Subject to subsections (2) and (4), the Local House must meet during such periods and on such days and during such hours as it may determine.
- (5) The chairperson may at any time, and if so directed by the MEC, must call a special meeting of the Local House on a day and at a place to be determined by the said chairperson with the approval of the MEC and at such special meeting only such matters as are placed before the Local House must be dealt with.
- (6) A person designated by the MEC may attend the meetings of the Local House to advise the Local House regarding government policies and legislation that relate to traditional affairs.

12. Election of the chairperson and deputy chairperson of the Local House

At its first meeting, contemplated in [section 11](#), the Local House must elect one of its members to be the Chairperson, and must thereafter elect another of its members to be the deputy Chairperson of the Local House.

13. Roles, functions and duties of the chairperson and deputy chairperson of the Local House

- (1) The chairperson of the Local House has the following roles, functions and duties:
 - (a) to call the meetings of the Local House;
 - (b) to chair the meetings of the Local House;
 - (c) to ensure the efficient day-to-day running of the business of the Local House; and
 - (d) to perform any other function or role as may be assigned to him or her by the MEC or this Act.
- (2) If the chairperson is absent or for any reason unable to perform the functions vested in the office of chairperson, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson during the absence or inability of the chairperson or until a chairperson is elected.
- (3) If any of the circumstances described in subsection (2) applies with reference to both the chairperson and the deputy chairperson, a member of the Executive Committee designated in terms of the rules and orders must act as chairperson while the said circumstances prevail.
- (4) The deputy chairperson or the member of the Executive Committee designated under subsection (3), while acting as chairperson, must perform the functions vested in the office of chairperson.
- (5) The chairperson, the deputy chairperson or any other member of the Local House designated for that purpose in terms of the rules and orders must preside over meetings of the Local House.
- (6) While presiding at a meeting of the Local House, the chairperson, deputy chairperson or any other member presiding must not have a deliberative vote, but must have and exercise a casting vote in the case of an equality of votes.
- (7) The chairperson or deputy chairperson must vacate his or her office if he or she ceases to be a member of the Local House according to sections 14 and 16, and may be removed from office by resolution of the Local House, and may resign by lodging his or her resignation in writing with the secretary of the Local House.
- (8) If the office of chairperson or deputy chairperson becomes vacant, the Local House, under the chairpersonship of the Premier or a person designated by the Premier, must elect a member to fill the vacancy: Provided that the chairperson must in such event preside at the election of the deputy chairperson.

14. Qualification for membership of the Local House

- (1) No person must become or remain a member of the Local House, unless he or she is of or over the age of 18 years, or if he or she—
 - (a) at any time after the promulgation of the [Constitution](#), is convicted of an offence in the Republic, or outside the Republic, if the conduct constituting such offence would have constituted an offence in the Republic, and for which he or she has been sentenced to imprisonment of more than 12 months without the option of a fine, unless he or she has received a pardon;
 - (b) is an unrehabilitated insolvent;
 - (c) is of unsound mind and has been so declared by a competent court;
 - (d) is a member of a municipal council, a member of the provincial legislature or a member of Parliament;
 - (e) is not a South African citizen;

- (f) is not permanently resident within the Republic.
- (2) For the purpose of subsection (1)(a), no person must be deemed as having been convicted of an offence until any appeal against the conviction or sentence has been determined, or, if no appeal against the conviction or sentence has been noted, the time for noting such an appeal has expired.

15. Functions of the Local House

The functions of the Local House are:

- (a) to advise the district or metropolitan municipality or municipality in question on—
 - (i) matters pertaining to customary law, customs, traditional leadership and the traditional communities within the district municipality or metropolitan municipality;
 - (ii) the development of planning frameworks that impact on traditional communities; or
 - (iii) the development of by-laws that impact on traditional communities;
- (b) to participate in local programmes that have the development of communities as an object; or
- (c) to participate in local initiatives that are aimed at monitoring, reviewing or evaluating government programmes in communities.

Chapter 4 General matters

16. Vacation of seats

A member of a House must vacate his or her seat—

- (a) if he or she ceases to be eligible to be a member of the House in terms of section 7 or 14;
- (b) if he or she resigns his or her seat by submitting his or her resignation in writing to the secretary to a House;
- (c) if he or she is removed from office in terms of the code of conduct; or
- (d) if he or she, without having obtained leave in accordance with the rules and orders, absents himself or herself from three consecutive meetings of the House.

17. Rules and orders

The respective Houses may make rules and orders in connection with the conduct of its business and proceedings, including rules and orders regulating—

- (a) the establishment, constitution, powers and functions, procedures and duration of committees of the relevant House: Provided that provision must be made for a standing executive committee consisting of the chairperson, deputy chairperson and 3 other members elected by the relevant House;
- (b) restrictions on access to such committees; and
- (c) the designation of members of the House as presiding officers to preside over meetings of the respective House, as and when the chairperson so requires.

18. Quorum

The presence of—

- (a) at least one third of all members of a House shall be necessary to constitute a meeting of the House; or
- (b) a majority of all members of a House shall be necessary when a vote is taken on any question before the House.

19. Requisite majorities

- (1) All questions before a House must be determined by a majority of votes cast by the members present.
- (2) The person designated by the MEC to attend the meetings of a House in terms of sections [4\(6\)](#) and [11\(6\)](#), does not have any voting rights.

20. Salaries and allowances payable to members of the Houses and status of members

- (1) Members of a House are remunerated in terms of the Remuneration of Public Office Bearers Act, 1998 ([Act No. 20 of 1998](#)).
- (2) The Premier may, after consultation with the Houses, determine that certain members of a House are full-time members.

21. Administration and accountability of the Houses

- (1) The MEC, after consultation with the chairpersons of a House must, after consultation with the Premier, appoint a Secretary and such other staff as may be necessary for the discharge of the work of the Houses.
- (2) Until the necessary staff is appointed as contemplated in subsection (1), the Premier may designate officers as may be necessary for the purpose of subsection (1).
- (3) Persons appointed under this section must be remunerated out of and as a charge on the Provincial Revenue Fund.
- (4) The Houses must—
 - (a) keep proper records;
 - (b) have its financial statements audited by the Auditor General;
 - (c) disclose the receipt of awards, gifts and favours;
 - (d) in addition to quarterly meetings, hold an annual meeting to give account of the activities and finances of the Houses;
 - (e) adhere to the Code of Conduct provided for in Schedule 1 of this Act;
 - (f) be responsive to the needs of traditional councils;
 - (g) establish clear relationships and facilitate co-operation and communication between traditional councils;
 - (h) submit to the MEC quarterly reports of their activities to the Provincial Government;
 - (i) hold the Secretaries of the Houses accountable for the overall performance of the administration of the Houses;
 - (j) maximise the efficiency of communication and decision-making within the administration of the Houses;

- (k) assign clear responsibilities for the management and co-ordination of the administration of the Houses;
- (l) involve the Secretaries of the Houses in management decisions as far as is practicable; and
- (m) provide an equitable, fair, open and non-discriminatory working environment.

22. Support to the Houses

- (1) The Provincial Government may adopt legislative or other measures as may be necessary to support and strengthen the capacity of the Houses.
- (2) The Premier must, within the Provincial Government's means, give the Houses financial support to enable them to perform their functions.
- (3) The support envisaged in this section may include transport assistance, where it is feasible, taking into consideration budgetary means.

23. Relationship between the Provincial House and the Kings and Queens

The Provincial House must, on a bi-annual basis, hold a meeting with all Kings and Queens in the Province to discuss—

- (a) the activities and programmes of the Provincial House;
- (b) matters of interest to Kings and Queens;
- (c) matters relating to service delivery and development of traditional communities; and
- (d) any other business identified and proposed by either party and agreed to by both parties.

24. Relationship between the Provincial House and the Local House

- (1) The Provincial House must, on a bi-annual basis, hold a meeting with the Local Houses to discuss—
 - (a) activities and programmes of both Houses;
 - (b) matters relating to service delivery and development of traditional communities;
 - (c) any other business identified and proposed by either House and agreed to by both Houses.
- (2) The Provincial House must advise the Local House regarding the administration of their affairs.
- (3) Where the Provincial House wishes to interact with traditional council such interaction must be done in consultation with the relevant Local House: Provided that where no Local House has been established, the Provincial House may interact directly with the traditional council.

25. Relationship between the Local House and traditional councils

- (1) The Local House must investigate matters referred to it by the traditional councils and make recommendations.
- (2) The Local House must advise traditional councils regarding the administration of their affairs.
- (3) Members of a Local House must report on the progress of matters relating to the general interest and welfare of traditional councils quarterly to their respective traditional councils.
- (4) Members of a Local House must table the reports referred to in subsection (3) at the first meeting of the House, after the reports have been submitted to the respective traditional councils.
- (5) Where the Provincial House wishes to interact with a traditional council, such interaction must be done in consultation with the Local House under whose jurisdiction the said traditional council is located.

26. Relationship between the Provincial House and the Provincial Legislature

- (1) The Speaker of the Provincial Legislature must refer all the Bills introduced in the Legislature that relate to traditional affairs, customary law, traditions or customs of traditional communities in the Province or any other law that has an effect thereon, to the Provincial House for its comments.
- (2) The Provincial House must consider and comment on the Bills referred to in subsection (1).
- (3) The written notification of the Provincial House's support or opposition of a Bill referred to it, together with the comments, must be submitted to the Speaker within 30 days from the date of such referral.
- (4) Notwithstanding subsection (1), the Provincial Legislature may refer any Bill introduced in the Legislature to the Provincial House for its comments.

27. Relationship between a Local House and the Municipal Council

- (1) The Local House must, in consultation with traditional councils, advise the district or metropolitan municipalities on matters relating to the general interest and welfare of traditional communities.
- (2) The Speaker of a district municipality or metropolitan municipality must refer all the draft by-laws that relate to traditional affairs, customary law, traditions or customs of traditional communities in the municipality's jurisdiction, to a Local House for its comments.
- (3) A Local House must consider and comment on draft by-laws referred to in subsection (2).
- (4) The written notification of the Local House's support or opposition of a by-law referred to it, together with comments, must be submitted to the Speaker within 30 days from the date of such referral.
- (5) Notwithstanding subsection (2), a district municipality or metropolitan municipality may refer any draft by-law to a Local House for its comments.

28. Relationship between the Provincial House and the Executive Council

The Premier must, in consultation with the Provincial House and the Executive Council, determine the relationship between the Executive Council and the Provincial House.

29. Privileges and immunities of members of Houses

Members of a House—

- (a) have freedom of speech in the respective House and its committees, subject to its rules and orders; and
- (b) are not liable to civil or criminal proceedings, arrest, imprisonment or damages for—
 - (i) anything that they have said in, produced before or submitted to the respective Houses or any of its committees, or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the respective House or any of its committees.

30. Dissolution of a House

A House must be dissolved—

- (a) on the expiry of the term of office of the House; or
- (b) after a vote supported by a two-thirds majority of the full complement of the members of a House in a meeting of the House called for that purpose.

31. Oath and affirmation

Before members of a House begin to perform their functions in the respective House, they must swear or affirm faithfulness to the Republic and obedience to the [Constitution](#) in accordance with Schedule 3 of this Act, before a judge of the High Court designated by the Judge President, for this purpose.

32. Regulations

The Premier may make regulations relating to:

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) in general, any matter which is considered necessary or expedient to prescribe for achieving the objects of this Act.

33. Delegation

- (1) The Premier may in writing delegate any of his or her powers or functions in terms of this Act, except powers to make regulations in terms of [section 32](#), to the MEC.
- (2) A delegation in terms of this section may be withdrawn at any time by the Premier.

34. Repeal of laws, savings and transitional arrangements

- (1) The senior traditional leaders and headmen or headwomen who, on the date of coming into operation of this Act were members of the House of Traditional Leaders established under the House of Traditional Leaders Act, 1994 ([Act No. 6 of 1994](#)), remain members of that House and continue as such as if that Act had not been repealed, until the expiry of the current term, whereupon the that House must be reconstituted in terms of this Act.
- (2) The Laws listed in Schedule 2 are hereby repealed to the extent indicated in the same Schedule.
- (3) Anything done or any act performed under the repealed laws is deemed to have been done or performed under this Act.

35. Short title

- (1) This Act is called the Free State Provincial and Local Houses of Traditional Leaders Act, 2017, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.
- (2) Different dates of commencement may be so determined for different sections of this Act.

Schedule 1

Code of Conduct of members of Houses

1. General conduct of members of Houses

A member of a House—

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an effective and efficient manner;
- (c) must comply with any applicable legislation, promote nation building and principles of democracy and an open society;

- (d) must act in the best interests of the traditional community or communities he or she serves and must promote unity amongst traditional communities;
- (e) must foster good relations with the organs of state, other traditional leaders and traditional communities with whom he or she interacts;
- (f) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (g) must not use his or her position or confidential information obtained because of his or her position, for personal gain or in order to improperly benefit another;
- (h) must obey a lawful order given to him or her by a person having authority to give such an order;
- (i) may not abuse his or her powers or extort or by use of compulsion or by arbitrary means, obtain any tribute, fee, reward or gift;
- (j) must not excessively use intoxicating liquor or stupefying drugs.

2. Breaches of Code of Conduct by members of a House

- (1) If there is a reasonable suspicion that a member of a House has breached a provision of this Code of Conduct, the Premier may refer the matter to the chairperson of the House for investigation, failing which an inquiry may be conducted regarding the member of the House concerned by a person appointed by the Premier.
- (2) At an inquiry contemplated in sub-item (1), a member of a House must be given a reasonable opportunity to be heard: Provided that the proceedings shall not be invalidated by failure of his or her attendance of the enquiry.
- (3) The person appointed to conduct the inquiry must—
 - (a) at the conclusion of the inquiry, find whether the member of the House is guilty of a breach of the provision of the Code of Conduct and inform such member of such finding; and
 - (b) forward to the Premier, the record of the proceedings, a statement of the findings, the reasons therefore, and any observations which he or she deems necessary to make.
- (4) If the member of a House has been found guilty of a breach of the Code of Conduct, the Premier may—
 - (a) issue a formal warning to the member of the House;
 - (b) caution or reprimand the member of the House;
 - (c) compel the member of the House to go for rehabilitation for alcoholism, drug dependency or any other improper addiction;
 - (d) impose on the member of the House a fine not exceeding ten thousand rand, payable or recoverable from any remuneration to be paid to him or her in terms of the applicable legislation for the benefit of the Provincial Revenue Fund in such installments as the Premier may determine;
 - (e) direct that for such period not exceeding two years as the Premier may determine, he or she must not be paid any remuneration;
 - (f) suspend the member of the House from official duties for a specified period not exceeding two years;
 - (g) remove the member of the House from office; or
 - (h) impose on him or her any two of the penalties referred to in paragraphs (a), (b) and (c) jointly.

- (5) A member of a House who has been convicted by a competent court of law of any offence referred to in Schedule 1 of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)), or of any offence which, in the opinion of the Premier, is tantamount to misconduct, is deemed, on account of such conviction, to have been found guilty of misconduct in terms of this schedule, in which event the provisions of sub-item (4) applies with the necessary changes.
- (6) Whenever a member of a House has been charged with a breach of the Code of Conduct or with any offence contemplated by sub-item (5), the Premier may suspend such member until such time that —
- (a) the member of the House has been found guilty of a breach of the Code of Conduct or of such other offence as contemplated in sub-item (5); or
 - (b) the member of the House has been acquitted in respect of the charge of the breach of the Code of Conduct or such other offence as contemplated in sub-item (5) or the charge of breach of the Code of Conduct or the criminal prosecution against him or her is withdrawn or abandoned.

3. Misconduct by members of a House

A member of A House is guilty of misconduct and may be dealt with in accordance with the provisions of item 2, if he or she does not comply with the provisions of item 1 or if he or she—

- (a) contravenes or fails to comply with any provisions of this Act or fails to perform any duty or to discharge any obligation imposed upon him or her under any other law;
- (b) is negligent, careless or indolent in the discharge of his or her duties;
- (c) is unable to execute his or her duties in an efficient manner;
- (d) disobeys, disregards or makes willful default in carrying out a lawful order given to him or her by a person having authority to give it;
- (e) conducts himself or herself in a disgraceful, improper or unbecoming manner;
- (f) is dependent on intoxicating liquor or stupefying drugs;
- (g) embarks in activities that creates division within or amongst traditional communities;
- (h) is found guilty by a court of law, for any criminal offence.

Schedule 2

Repeal of laws

Name of Act	Year of publication	Extent of repeal
House of Traditional Leaders Act	Act No. 6 of 1994	The whole
House of Traditional Leaders Amendment Act	Act No. 5 of 2000	The whole

Schedule 3

“I swear/affirm that I will be faithful to the Republic of South Africa and the Institution of Traditional Leadership and I will obey, respect and uphold the [Constitution of the Republic of South Africa](#); and I solemnly promise to perform my functions as a member of the Free State House of Traditional Leaders to the best of my ability.”

(In the case of an oath members shall raise their right hand and utter the words “So help me God”).